IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 17749 of 2004

Between:

B.Ramulu S/o.Ramdass
R/o.3-5-114/69 Kachiguda X Road, Hyderabad.

..... PETITIONER

AND

1 APSRTC, Hyderabad City Region J.B.S.Secunderabad
rep. by its Regional Manager.
2 APSRTC, Bus Depot, uppal,

Hyderabad rep by its Depot Manager.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of writ of Certiorari and quash the impugned punishment proceeding No.01/2(7)/99-UPL dated 16.2.2000 as confirmed by the 1st respondent vide proceeding No.PA/20(241)/03-HCR dated 12.3.2004, as arbitrary, illegal and in violation of Principles of natural justice and consequently direct the respondents to restore the deferred increments along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Standing Counsel for the Respondents: MR.V.T.M.PRASAD

The Court, at the admission stage, made the following:

THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO : 17749 of 2004

ORDER:

Challenging the proceedings No.01/2(7)/99-UPL, dated 16-02-2000 as confirmed by the 1st respondent vide proceeding No.PA/20(241)/03-HCR, dated 12-03-2004, the present writ petition has been filed.

2. The learned counsel for the petitioner contended that it is not at the fault of the petitioner in causing the accident occurred on 10-04-1999 but it is solely on the part of the deceased himself came on a cycle and dashed to the rear side of the bus, consequently he succumbed to the injuries and in those circumstances, no negligence or rashness can be attributed to the petitioner who was driving the vehicle bearing Rgn.No.AP 10Z 3856 at the time of accident. He further contended that the findings given by the Enquiry Officer is solely based upon the evidence adduced on record and therefore, the findings suffer from serious legal infirmities.

3 . Per contra, the learned standing counsel for the respondent-Corporation contended that since the petitioner in not anticipating the cyclist, caused to the accident and therefore, the accident was caused due to lack of anticipation by the petitioner and the punishment imposed against the petitioner is proportionate to the proved misconduct and therefore there are no grounds to interfere with the punishment awarded.

4. It is the case of the petitioner that a regular departmental enquiry is ordered against the petitioner for causing a fatal accident occurred on 10-04-1999 near Golnaka bus stop. After conducting enquiry, the Enquiry Officer submitted a report to the 2nd respondent-disciplinary authority who accepted the findings of the Enquiry Officer and accordingly the petitioner was imposed the punishment

of reduction of pay by two incremental stages for a period of two years with cumulative effect. Challenge to the said proceedings, the petitioner filed an appeal before the Divisional Manager, Hyderabad, where under it was confirmed. Again the petitioner also filed review petition before the 1st respondent-Regional Manager, the same was also dismissed. Aggrieved by the same, the present writ petition is filed.

5. As seen from the evidence of one of the witnesses, it is clear that the driver has failed to anticipate the movements of the cyclist who came from the lane from left side and dashed to the left portion of the bus and caused to the death of the cyclist. No doubt, contrary to this evidence, the Conductor of the crime vehicle in his evidence clearly stated that there was no negligence on the part of the petitioner. But, at the same time, the issue arises relating to the question as to whether the findings given by the disciplinary authority are only based upon the evidence adduced in the departmental enquiry?

6. On perusal of the order of the 2nd respondent-disciplinary authority, it is clear that the 2nd respondent accepted the enquiry report and came to the conclusion that the accident was caused due to the lack of anticipation by the petitioner. Even according to the evidence of one of the witnesses that the accident caused due to lack of anticipation on the part of the petitioner, it cannot be said that the findings are perverse or contrary to the evidence on record. Therefore, there are no grounds to interfere with the findings recorded by the disciplinary authority as confirmed by the appellate authority and review authorities.

7. On considering the rival submissions made by the counsel for the parties and as seen from the entire material available on record, I feel it consider that it is not a case of direct hit of the bus to the deceased. The deceased himself dashed to the rear side portion of the bus either in the opposite direction or in the same direction. Therefore, in such view of the matter, I am of the considered opinion that imposing a major penalty is disproportionate to the proved misconduct. Hence, the punishment imposed against the petitioner can be reduced with a slight modification.

8. Accordingly, the writ petition is partly allowed, the sentence of deferment of two annual incremental stages with cumulative effect imposed against the

petitioner is modified as the deferment of two annual incremental stages without cumulative effect. No costs.

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February 10, 2005

Kvr

To

1. The Regional Manager,

   APSRTC, Hyderabad City Region

J.B.S.Secunderabad.

2 The Depot Manager.

   APSRTC, Bus Depot, uppal,

Hyderabad

3 2 C.D copies.